

AMENDED IN ASSEMBLY SEPTEMBER 7, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 838

Introduced by Assembly Member Hill

February 17, 2011

~~An act to add Chapter 5 (commencing with Section 71033) to Part 1 of Division 34 of the Public Resources Code, relating to environmental protection. An act to add Section 316 to the Public Utilities Code, relating to the Public Utilities Commission.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 838, as amended, Hill. ~~Environmental protection: permits: regulations. Public Utilities Commission: public safety.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities. The Public Utilities Act requires the commission to investigate the cause of all accidents occurring upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the commission, investigation by it, and authorizes the commission to make any order or recommendation with respect to the investigation that it determines to be just and reasonable. The act additionally authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or services to be furnished, imposed, observed, and followed by specified public utilities, including electrical and gas corporations. Existing law designates the consumer protection and safety division of the commission as being

responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description, by rail.

This bill would require the commission to designate one of its members as being responsible for overseeing the public safety oversight and supervision responsibilities of the commission and to ensure that public safety is a primary goal in all proceedings before the commission. The bill would require the commission to designate one employee dedicated to public safety functions of the commission who will work directly with that commissioner and advise that commissioner, and the commission when requested, relative to all matters that may affect the public safety that are within the responsibility of the commission. The bill would require the designated commissioner to annually appear before the appropriate policy committees of the Senate and Assembly to report on the public safety oversight and supervision activities of the commission.

~~(1) Existing law requires the Secretary for Environmental Protection to establish a process, to be used at the request of a permit applicant for a project that requires permits from 2 or more environmental agencies, for the designation of a consolidated permit agency for the project.~~

~~This bill would require the secretary to identify, prior to the adoption of policies, rules, or regulations by an environmental agency, as defined, whether the policies, rules, or regulations overlap, duplicate, or conflict with existing statutes, policies, rules, or regulations. The bill would require the secretary to establish an expedited conflict resolution process by which a petitioner or applicant may request resolution of conflicts that arise in the permitting process, as provided, if the petitioner or applicant demonstrates that a failure to resolve the conflict will result in pollution being transferred to other media or locations or prevent control of an existing source of pollution having significantly greater environmental or public health impacts. Because an environmental agency, which includes a local air pollution control or air quality management district, would be required to take a specific action, this bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 316 is added to the Public Utilities Code,~~
2 ~~to read:~~

3 ~~316. (a) The commission shall designate one of its members~~
4 ~~as being responsible for overseeing the public safety oversight and~~
5 ~~supervision responsibilities of the commission. The commissioner~~
6 ~~so designated shall be responsible for coordination of all actions~~
7 ~~of the commission to ensure that public safety is a primary goal~~
8 ~~in all proceedings before the commission.~~

9 ~~(b) The commission shall designate one employee dedicated to~~
10 ~~public safety functions of the commission who will work directly~~
11 ~~with the commissioner designated by the commission, pursuant to~~
12 ~~subdivision (a), as having responsibility for overseeing the public~~
13 ~~safety inspection and enforcement responsibilities of the~~
14 ~~commission. The employee will work directly with the~~
15 ~~commissioner so designated and advise the commissioner, and the~~
16 ~~commission when requested, relative to all matters that may affect~~
17 ~~the public safety that are within the responsibility of the~~
18 ~~commission.~~

19 ~~(c) The commissioner designated by the commission, pursuant~~
20 ~~to subdivision (a), as having responsibility for overseeing the~~
21 ~~public safety inspection and enforcement responsibilities of the~~
22 ~~commission, shall annually appear before the appropriate policy~~
23 ~~committees of the Senate and Assembly to report on the public~~
24 ~~safety oversight and supervision activities of the commission.~~

25 ~~SECTION 1. Chapter 5 (commencing with Section 71033) is~~
26 ~~added to Part 1 of Division 34 of the Public Resources Code, to~~
27 ~~read:~~

28
29 ~~CHAPTER 5. POLICIES~~
30

31 ~~71033. (a) Prior to the adoption of policies, rules, or regulations~~
32 ~~by an environmental agency, the secretary shall identify whether~~

1 the policies, rules, or regulations overlap, duplicate, or conflict
2 with existing statutes, policies, rules, or regulations.

3 (b) The secretary shall establish an expedited conflict resolution
4 process by which a petitioner or applicant may request resolution
5 of conflicts that arise between the requirements for permits issued
6 by two or more environmental agencies for a single project,
7 between two or more offices of the same environmental agency;
8 or by the same office of an environmental agency at two different
9 times, if the petitioner or applicant demonstrates that a failure to
10 resolve the conflict will result in pollution being transferred to
11 other media or locations or prevent control of an existing source
12 of pollution having significantly greater environmental or public
13 health impacts.

14 (c) This section does not weaken or undermine in any manner
15 any human health, public or worker rights, public welfare,
16 environmental, or other protection established under statute. This
17 section does not affect the authority or requirement for an
18 environmental agency to adopt regulations as provided by statute.

19 (d) For purposes of this section “environmental agency” means
20 the Department of Toxic Substances Control, the Department of
21 Pesticide Regulation, the State Air Resources Board, the State
22 Water Resources Control Board, the Office of Environmental
23 Health Hazard Assessment, a California regional water quality
24 control board, and a district, as defined in Section 39025 of the
25 Health and Safety Code.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 a local agency or school district has the authority to levy service
29 charges, fees, or assessments sufficient to pay for the program or
30 level of service mandated by this act, within the meaning of Section
31 17556 of the Government Code.